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GOOGLE INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ORACLE AMERICA, INC.,

Plaintiff,

v.

GOOGLE INC.,

Defendant.

Case No. 3:10-cv-03561-WHA

**DECLARATION OF DAVID ZIMMER IN
SUPPORT OF GOOGLE'S OPPOSITION
TO MOTION TO EXCLUDE PORTIONS
OF THE EXPERT REPORTS OF
GREGORY K. LEONARD AND ALAN J.
COX**

Judge: Hon. William Alsup

Date Comp. Filed: October 27, 2010

1 I, David Zimmer, declare as follows:

2 1. I am an associate with the law firm of Keker & Van Nest LLP, counsel to Google
3 Inc. ("Google") in the present case. I submit this declaration in support of Google Inc.'s
4 Opposition to Oracle's Motion to Exclude Portions of the Expert Reports of Gregory K. Leonard
5 and Alan J. Cox. I have knowledge of the facts set forth herein, and if called to testify as a
6 witness thereto could do so competently under oath.

7 2. Attached as **Exhibit A** is a true and correct copy of Oracle America, Inc.'s
8 ("Oracle") Notice of Deposition of Defendant Google Inc. Pursuant To Fed. R. Civ. P. 30(b)(6),
9 Topics 4-9, served on Google on June 21, 2011.

10 3. Attached as **Exhibit B** is a true and correct copy of Oracle's Corrected Requests
11 for Production of Documents and Things to Defendant Google Inc., Set Two (82-130), served on
12 Google on January 25, 2011.

13 4. Attached as **Exhibit C** is a true and correct copy of Oracle's Interrogatories To
14 Defendant Google Inc., Set Four, dated June 29, 2011.

15 5. Google has proposed that Oracle take two-hour depositions of Google employee
16 Tim Bray and third-party witness John Rizzo. Mr. Rizzo is not under Google's control, but
17 Google has reached out to him and his employer Aplix regarding potential deposition dates, and
18 has agreed to facilitate Oracle's service of a subpoena on Mr. Rizzo. Google has proposed
19 deposition dates to Oracle for both Mr. Bray and Mr. Rizzo.

20 6. Oracle has deposed Andy Rubin on three occasions in this case—for a full day in
21 his personal capacity on April 5, 2011, for a full day in his personal capacity and on three Rule
22 30(b)(6) topics on July 27, 2011, and then a further examination on the Rule 30(b)(6) topics on
23 August 18, 2011.

24 7. Attached as **Exhibit D** are true and correct copies of excerpted pages from the
25 transcript of the deposition of Andy Rubin, taken April 5, 2011.

26 8. Oracle has deposed Dan Bornstein on two occasions in this case—for a full day in
27 his personal capacity on May 16, 2011, and then for a further full day as a Rule 30(b)(6)
28 designee on July 22, 2011.

9. Attached as **Exhibit E** are true and correct copies of excerpted pages from the transcript of the deposition of Dan Bornstein, taken July 22, 2011.

10. Attached as **Exhibit F** are true and correct copies of excerpted pages from the transcript of the deposition of Dan Bornstein, taken May 16, 2011.

11. Oracle deposited Brian Swetland for a full day in this case on July 7, 2011.

12. Attached as **Exhibit G** are true and correct copies of excerpted pages from the transcript of the deposition of Brian Swetland, taken July 7, 2011.

13. Oracle deposited Aditya Agarwal for a half day in this case on April 8, 2011 as Google's Rule 30(b)(6) designee on financial issues related to Android.

14. Attached as **Exhibit H** are true and correct copies of excerpted pages from the transcript of the deposition of Aditya Agarwal, taken April 8, 2011.

15. Attached as **Exhibit I** is a true and correct copy of email correspondence between Oracle's counsel Daniel Muino and Google's counsel Mark Francis, written on August 3, 2011.

16. Attached as **Exhibit J** are true and correct copies of excerpted pages from the transcript of the deposition of Oracle's damages expert Iain M. Cockburn, taken October 17, 2011.

17. Attached as **Exhibit K** are true and correct copies of excerpted pages from the transcript of the deposition of Oracle's marketing expert Steven Shugan, taken September 26, 2011.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Francisco, California on October 28, 2011.

By: 

DAVID ZIMMER